

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicant: Kevin Woehr et al.  
5 Assignee: B. Braun Melsungen AG  
Title: SPRING CLIP SAFETY IV CATHETER  
Serial No.: 10/734,931 Filed: December 12, 2003  
Examiner: Phillip A. Gray Group Art Unit: 3767  
Attorney Docket No.: 1131-13-PA-TD

10 -----  
Mail Stop Appeal Brief – Patents  
Board of Patent Appeals and Interferences  
PO Box 1450  
15 Alexandria, VA 22313-1450

**APPELLANTS' BRIEF**

Sir:

20 In response to the final Office action mailed on April 8, 2008, Appellants hereby appeal to the Board of Patent Appeals and Interferences the final rejections in the above-captioned patent application.

**REAL PARTY IN INTEREST**

25 The real party in interest in this appeal is the assignee of this application, B. Braun Melsungen AG.

**RELATED APPEALS AND INTERFERENCES**

Appellants are unaware of any related appeals or interferences.

**STATUS OF THE CLAIMS**

30 Claims 1-22 and 33-47 are pending in the application. Claims 23-32 have been canceled. Claims 1-22 and 33-47 stand rejected in the final Office action mailed on April 8, 2008. Appellants hereby appeal Claims 1-22 and 33-47.

## STATUS OF AMENDMENTS

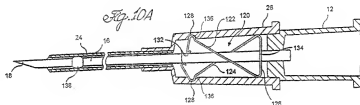
Appellants have not submitted any Amendments subsequent to the final Office action. Therefore, the claims before the Board appear as shown in the Amendment filed on December 31, 2007, and as shown in the Claims Appendix attached hereto.

§

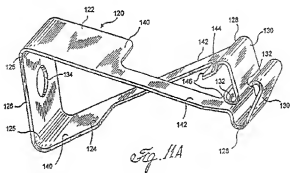
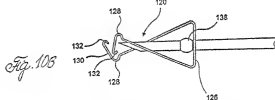
### SUMMARY OF CLAIMED SUBJECT MATTER

### Claim 1

Claim 1 recites a needle protector clip 120 for protecting a tip 18 of a needle 16. (Specification ("Spec."), paras. 72 & 75, Figs. 10A & 10B) The needle protector clip 120 comprises a proximal wall 126 including an opening 134 having a needle 16 passing therethrough. (Spec., para. 72, Figs. 10A & 11A) The proximal wall 126 defines a plane. (Fig. 11A)



A first resilient arm 122 extends distally to the plane of the proximal wall 126. (Spec., para. 72, Figs. 10A & 11A) The first resilient arm 122 comprises a first arm section 140 comprising a first dimension and a second arm section 142 comprising a second dimension, wherein the first dimension is larger than the second dimension. (Spec., para. 72, Fig. 11A)



A second resilient arm 124 extends distally to the plane of the proximal wall 126. (Spec., para. 72, Figs. 10A & 11A) The second resilient arm 124 comprises a first arm section 140 comprising a first dimension and a second arm section 142 comprising a second dimension, wherein the first dimension is larger than the

second dimension. (Spec., para. 72, Fig. 11A)

The first resilient arm 122 intersects the second resilient arm 124 at their respective second arm sections 142. (Spec., para. 19, Fig. 11A)

30

Claim 18

Claim 18 recites a needle protector clip 120 for protecting a tip 18 of a needle 16. (Spec., paras. 72 & 75, Figs. 10A & 10B) The needle protector clip 120 comprises a proximal wall 126 including an opening 134 having a needle 16 passing therethrough. (Spec., para. 72, Figs. 10A & 11A) The proximal wall 126 defines a plane. (Fig. 11A)

A first resilient arm 122 extends distally to the plane of the proximal wall 126. (Spec., para. 72, Figs. 10A & 11A) The first resilient arm 122 comprises a first arm section 140 comprising a first dimension and a second arm section 142 comprising a second dimension, wherein the first dimension is larger than the second dimension. (Spec., para. 72, Fig. 11A)

A second resilient arm 124 extends distally to the plane of the proximal wall 126. (Spec., para. 72, Figs. 10A & 11A) The second resilient arm 124 comprises a first arm section 140 comprising a first dimension and a second arm section 142 comprising a second dimension, wherein the first dimension is larger than the second dimension. (Spec., para. 72, Fig. 11A)

The first resilient arm 122 and the second resilient arm 124 intersect one another. (Spec., para. 19, Fig. 11A) A distal arm wall 130 is positioned distally of at least one of the first resilient arm 122 and the second resilient arm 124. (Spec., para. 72, Fig. 11A)

Claim 19

Claim 19 recites a needle guard 120 for shielding a needle tip 18. (Spec., paras. 72 & 75, Figs. 10A & 10B) The needle guard 120 comprises a proximal end wall 126 having an opening 134 for receiving a needle 16 therethrough. (Spec., para. 72, Figs. 10A & 11A)

The needle guard 120 further comprises first and second arms 122, 124 each comprising a wide section 140, a narrow section 142, and a distal wall 130 at an end thereof. (Spec., para. 72, Fig. 11A) The first and second arms 122, 124 extend distally from the proximal end wall 126. (Spec., para. 72, Fig. 11A) The first arm 122 intersects the second arm 124, and their respective distal walls 130 overlap. (Spec., para. 72, Fig. 11A)

**GROUND OF REJECTION TO BE REVIEWED ON APPEAL**

The first issue before the Board is whether the recitation of “dimension” in Claim 1 is unclear.

The second and final issue before the Board is whether the subject matter of Claims 1-22 and 33-47 is unpatentable under 35 U.S.C. § 103(a) over U.S. Patent No. 4,929,241 to Kulli in

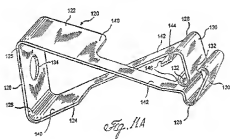
view of U.S. Patent No. 5,215,528 to Purdy et al. ("Purdy") and further in view of U.S. Patent No. 5,549,570 to Rogalsky.

## APPELLANTS' ARGUMENTS

### 5 Objection to Claim 1 (Issue Number 1)

In the final Office action ("FOA"), the Examiner objected to Claim 1, because the Examiner was unclear what "dimension" refers to. More specifically, the Examiner stated that he was unsure whether "dimension refers to the length, width[,] diameter, or some other angle/measurement [of the spring clip arms]." (FOA, pg. 2) For the reasons set forth below, Claim 1 sets forth the claimed subject matter with a reasonable degree of clarity and particularity. The claim therefore meets the requirement for definiteness under 35 U.S.C. § 112, second paragraph. The Examiner's objection is thus not well founded and should be withdrawn.

10 "The essential inquiry pertaining to [the definiteness requirement under Section 112, second paragraph] is whether the claims set out and circumscribe a particular subject matter with a reasonable degree of clarity and particularity." M.P.E.P. § 2173.02. Here, Claim 1 recites first and second resilient arms. Each arm includes a first arm section and a second arm section. Each first arm section comprises a first dimension, and each second arm section comprises a second dimension. The first dimension is larger than the second dimension.



With reference to Figure 11A of Appellants' disclosure, reproduced at left, the present spring clip needle guard 120 comprises a first arm 122 and a second arm 124. Each arm comprises a first arm section 140 and a second arm section 142. Each arm section includes a length, a width and a thickness.

25 A reasonable interpretation of Claim 1 is that the first dimension may refer to any of the length, the width or the thickness of the first arm sections, and the second dimension may refer to any of the length, the width or the thickness of the second arm sections. Section 112, second paragraph, does not require that Claim 1 recite the relative dimensions of the arm sections with any greater particularity. Claim 1 is broad enough to cover many different configurations for the arm section dimensions. For example, Claim 1 could cover the second arm sections having a

width greater than a length of the first arm sections. Claim 1 could also cover the second arm sections having a length greater than a thickness of the first arm sections.

But the breadth of Claim 1 does not render it indefinite. Rather, Claim 1 circumscribes the claimed subject matter with a reasonable degree of clarity and particularity, because one of skill in the art would be able to ascertain the scope of the claim. "In reviewing a claim for compliance with 35 U.S.C. 112, second paragraph, the examiner must consider the claim as a whole to determine whether the claim apprises one of ordinary skill in the art of its scope and, therefore, serves the notice function required by 35 U.S.C. 112, second paragraph, by providing clear warning to others as to what constitutes infringement of the patent." M.P.E.P. § 2173.02.

Since Claim 1 sets forth the claimed subject matter with a reasonable degree of clarity and particularity, Claim 1 meets the requirements of Section 112, second paragraph. Accordingly, Appellants respectfully request that the Board withdraw the Examiner's objection to Claim 1.

Rejections over Kulli in view of Purdy and further in view of Rogalsky (Issue Number 2)

Claims 1-22 and 33-47 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Kulli in view of Purdy and further in view of Rogalsky. However, the Examiner erred in his finding that Rogalsky teaches that it is known to use arms that intersect. Further, the Examiner has not clearly articulated a reason why the claimed invention would have been obvious. Accordingly, the Examiner has not met his burden of presenting a *prima facie* case of obviousness. The rejections of Claims 1-22 and 33-47 under Section 103 should therefore be withdrawn.

Under 35 U.S.C. § 103(a):

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains.

In rejecting claims under Section 103, the Examiner bears the initial burden of presenting a *prima facie* case of obviousness. *In re Oetiker*, 977 F.2d 1443, 1445 (Fed. Cir. 1992). In 2007, the Supreme Court reaffirmed the familiar framework for determining obviousness as set forth in *Graham v. John Deere Co.* (383 U.S. 1, 148 USPQ 459 (1966)). *KSR Int'l. Co. v. Teleflex Inc.*, 550 U.S. \_\_\_, 82 USPQ2d 1385 (2007). Furthermore, according to M.P.E.P. § 2141, "Office personnel fulfill the critical role of factfinder when resolving the *Graham* inquiries... Office

personnel must therefore ensure that the written record includes findings of fact concerning the state of the art and the teachings of the references applied. In certain circumstances, it may also be important to include explicit findings as to how a person of ordinary skill would have understood prior art teachings, or what a person of ordinary skill would have known or could have done. Factual findings made by Office personnel are the necessary underpinnings to establish obviousness.”

Under 35 U.S.C. § 132, a well articulated and reasoned Office action is required to properly notify an applicant of the reasons for the rejection of a claim so that he or she can then decide how best to proceed. The key to supporting any rejection under 35 Section 103 is the clear articulation of the reason(s) why the claimed invention would have been obvious. The Supreme Court in *KSR* noted that the analysis supporting a rejection under Section 103 should be made explicit. The Court quoting *In re Kahn*, 441 F.3d 977, 988, 78 USPQ2d 1329, 1336 (Fed. Cir. 2006), stated that “[R]ejections on obviousness cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness.” *KSR*, 550 U.S. at \_\_\_, 82 USPQ2d at 1396.

Prior art is not limited just to the references being applied, but includes the understanding of one of ordinary skill in the art. The prior art reference (or references when combined) need not teach or suggest all the claim limitations, however, Office personnel must explain why the difference(s) between the prior art and the claimed invention would have been obvious to one of ordinary skill in the art. The “mere existence of differences between the prior art and an invention does not establish the invention’s nonobviousness.” *Dann v. Johnston*, 425 U.S. 219, 230, 189 USPQ 257, 261 (1976). M.P.E.P. § 2141(III).

Once Office personnel have established the *Graham* factual findings and concluded that the claimed invention would have been obvious, the burden then shifts to the applicant to (A) show that the Office erred in these findings or (B) provide other evidence to show that the claimed subject matter would have been nonobvious. Examples of rebuttal evidence include:

(A) one of ordinary skill in the art could not have combined the claimed elements by known methods (e.g., due to technological difficulties);

(B) the elements in combination do not merely perform the function that each element performs separately; or

(C) the results of the claimed combination were unexpected. (MPEP § 2141(V)).

The prior art can be modified or combined to reject claims as *prima facie* obvious as long as there is a reasonable expectation of success. *In re Merck & Co., Inc.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). Obviousness does not require absolute predictability. However, at least some degree of predictability is required. Evidence showing there was no reasonable expectation of success may support a conclusion of nonobviousness. *In re Rinehart*, 531 F.2d 1048, 189 USPQ 143 (CCPA 1976). M.P.E.P. § 2143.02.

Claims 1-17 and 38-47

Appellants' Claim 1 recites a needle protector clip for protecting a tip of a needle. The needle protector clip comprises a proximal wall including an opening having a needle passing therethrough. The proximal wall defines a plane. A first resilient arm extends distally to the plane of the proximal wall. The first resilient arm comprises a first arm section including a first dimension and a second arm section including a second dimension. The first dimension is larger than the second dimension. A second resilient arm extends distally to the plane of the proximal wall. The second resilient arm comprises a first arm section including a first dimension and a second arm section including a second dimension. The first dimension is larger than the second dimension. The first resilient arm intersects the second resilient arm at their respective second arm sections.

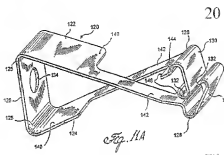


Figure 11A of Appellants' disclosure, reproduced at left, illustrates an example embodiment of a needle protector clip having the features recited in Claim 1. The clip 120 comprises a first arm 122 and a second arm 124. The arms 122, 124 extend distally from a proximal wall 126. Each arm 122, 124 includes a narrow portion 142 that extends between a proximal wide portion 140 and a distal wide portion 144. The arms intersect one another at their narrow portions 142. The specification also describes the intersecting feature of the needle guard, namely: "In yet a further embodiment of the invention, the spring clip needle guard is in the form of resilient *intersecting* arms, each terminating at a distal guard wall. When the needle is in the ready position, it passes through the guard and urges the resilient

arms away from each other and against the inner wall of the catheter hub." (Spec., Para. 19, emphasis added).

Kulli teaches a generally rectangular needle guard 10. (Figures 2-3, below) A wall 13 at a back end 12 of the guard 10 includes a hole 11 for accommodating a needle 14. Supported at opposite sides of this wall 13 are respective forward-extending jaws 15, 16. At the front ends of the two jaws 15, 16 are two opposed transverse shields 24, 26. The edges 25, 27 of the shields 24, 26 contact the needle 14 (Figure 2) until they are advanced past the needle tip 18 (Figure 3). Then, the guard 10 collapses forcibly to form a protective barrier 29.

FIG 2

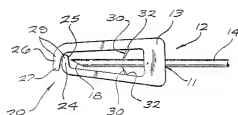
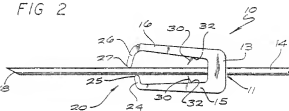
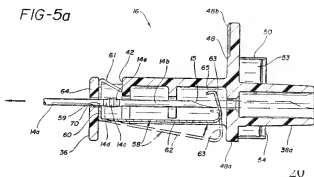


FIG. 3

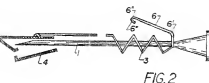
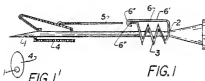
FIG-5a



Purdy teaches a catheter introducer assembly 10 including a needle tip shield 16. (Figure 5A, at left) The shield 16 includes a leaf spring 58 that is biased from the position shown in phantom lines toward the position shown in solid lines in Figure 5A. Contact between the end portion 63 and the needle 14

prevents movement of the leaf spring 58 until the end portion 63 moves past the needle tip 15 as the needle is withdrawn from the catheter and into the shield 16.

Rogalsky teaches a medical needle unit including a protective element. While Rogalsky discloses several embodiments, Figures 1 and 2 (at right) are illustrative. The protective element 2 includes a spring 3 connected to a hood 4, both of which are mounted about a needle 1. During injection the spring 3 is released to move the hood 4 to the position shown in Figure 2 where it covers the needle tip.

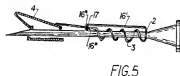
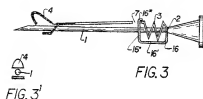
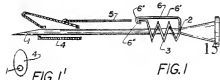


In the final Office action ("FOA"), the Examiner admits that neither Kulli nor Purdy teaches first and second intersecting resilient arms. (FOA, pg. 4) The Examiner contends, however, that this feature of Appellants' Claim 1 is taught by Rogalsky. (FOA, pp. 4-5) As support for his position, the Examiner points to Figures 1, 3 and 5, and columns 3-5 of Rogalsky.

5 The Examiner's position is unsupportable for the reasons outlined below.

Figures 1, 3, 4 and 5 of Rogalsky are reproduced below. Each of these figures shows a hood 4. The hood 4 includes a first portion shaped in cross section as a hook (disposed above the needle in Figures 1, 3 and 5, for example) and a second lower portion. In all figures except Figures 3 and 4 the second lower portion is generally flat and disposed below the needle. In  
10 Figures 3 and 4 the second lower portion is shaped like a flattened Z and extends above, below and across the needle, but not across the first upper portion.

Nowhere in Rogalsky is there a teaching or suggestion of a needle protector clip having first and second resilient arms that intersect one another.



Intersecting objects cut through or across one another. In the figures of Rogalsky, none of the hoods 4 include portions that cut through or across one another. In fact, in all figures

except Figures 3 and 4 the upper and lower portions of the hood 4

are spaced from one another over their entire lengths. In Figures 3 and 4 the upper and lower portions appear to be hinged to one another by a narrow member above the needle. In Figure 4 the upper portion pivots downward over the needle tip, but in neither

25 Figure 3 nor Figure 4 do the upper and lower portions cut through or across one another.

In addition to Figures 1, 3 and 5, the Examiner also points to columns 3-5 of Rogalsky as support for his position. Appellants could find no mention in columns 3-5, or in any other portion of Rogalsky, of a needle protector clip having first and second intersecting resilient arms.

Not only has the Examiner erred in his factual finding that Rogalsky teaches that it is  
30 known to use arms that intersect, but the Examiner has not even addressed the recitation in Claim 1 that the resilient arms intersect *at their respective second arm sections*[SLM1], where each has a

reduced dimension. For at least this additional reason, the Examiner's factual findings regarding Rogalsky are flawed.

As demonstrated above, the Examiner's factual finding that Rogalsky "teaches that it is known to use arms that 'intersect'" (FOA, pg. 4) is plainly wrong. For this reason alone, the Examiner has not met his burden of presenting a *prima facie* case of obviousness. However, the Examiner's obviousness rejections are further flawed because the Examiner has not clearly articulated a reason why the claimed invention would have been obvious.

The key to supporting any rejection under 35 U.S.C. § 103 is the clear articulation of the reason(s) why the claimed invention would have been obvious. M.P.E.P. § 2141(III) Here, the Examiner stated that "[i]t would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the system as taught by Kulli in view of Purdy with arms that 'intersect' as taught by Rogalsky, since such a modification would provide the system with arms that 'intersect' for providing an engagement and biasing of the two arms against each other." (FOA, pg. 5) This reasoning is flawed for at least two reasons.

First, the Examiner's states that "[i]t would have been obvious to ... modify ... Kulli in view of Purdy with arms that 'intersect' as taught by Rogalsky, since such a modification would provide the system with arms that 'intersect'." This statement is akin to saying that it would have been obvious to modify Kulli in view of Purdy with arms that intersect as taught by Rogalsky because it would have been obvious to do so. The Examiner's reasoning is circular.

Second, the Examiner asserts that arms that intersect provide engagement and biasing of the two arms against each other. The Examiner provides no factual basis for this assertion. Further, arms do not need to intersect in order to be engaged and biased against one another. In Kulli, for example, the shields 24, 26 are engaged and biased against one another, but they do not intersect.

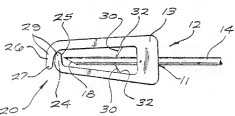


FIG. 3

As demonstrated above, the Examiner has not met his burden of presenting a *prima facie* case of obviousness. Accordingly, the Examiner's rejection of Claim 1 over Kulli in view of Purdy and further in view of Rogalsky is unsupported and should be withdrawn. Claims 2-22 and 38-47 depend from Claim 1 and therefore include all of the features recited therein. Accordingly, Claims 2-22 and 38-47 are allowable over Kulli in view of Purdy and further in

view of Rogalsky for at least the same reasons as Claim 1, and on their own merit. Appellants respectfully request that the Examiner's rejections of these claims also be withdrawn.

Claim 18

Appellants' Claim 18 recites a needle protector clip for protecting a tip of a needle. The  
5 needle protector clip comprises a proximal wall including an opening having a needle passing  
therethrough. The proximal wall defines a plane. A first resilient arm extends distally to the  
plane of the proximal wall. The first resilient arm comprises a first arm section including a first  
dimension and a second arm section including a second dimension. The first dimension is larger  
10 than the second dimension. A second resilient arm extends distally to the plane of the proximal  
wall. The second resilient arm comprises a first arm section including a first dimension and a  
second arm section including a second dimension. The first dimension is larger than the second  
dimension. The first resilient arm and the second resilient arm intersect one another. A distal  
arm wall is positioned distally of at least one of the first resilient arms and the second resilient  
arm.

15 Similarly to Claim 1, Claim 18 recites a needle protector clip having first and second  
resilient arms intersecting one another. As explained in detail above, the Examiner has not met  
his burden of presenting a *prima facie* case of obviousness with respect to Claim 1. Since Claim  
18 recites at least one limitation that is also recited in Claim 1, the Examiner's rejection of Claim  
18 over Kulli in view of Purdy and further in view of Rogalsky is unsupported for at least the  
20 same reasons as Claim 1 and should be withdrawn.

Claims 19-22 and 33-37

Appellants' Claim 19 recites a needle guard for shielding a needle tip. The needle guard  
comprises a proximal end wall having an opening for receiving a needle therethrough. The  
needle guard further comprises first and second arms, each including a wide section, a narrow  
25 section, and a distal wall at an end thereof. The first and second arms extend distally from the  
proximal end wall. The first arm intersects the second arm and their respective distal walls  
overlap.

Similarly to Claim 1, Claim 19 recites a needle protector clip having first and second  
arms intersecting one another. As explained in detail above, the Examiner has not met his  
30 burden of presenting a *prima facie* case of obviousness with respect to Claim 1. Since Claim 19  
recites at least one limitation that is also recited in Claim 1, the Examiner's rejection of Claim 19

over Kulli in view of Purdy and further in view of Rogalsky is unsupported for at least the same reasons as Claim 1 and should be withdrawn.

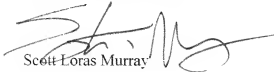
### CONCLUSION

In view of the foregoing, Appellants respectfully submit that the Examiner's objection to Claim 1 and rejections of Claims 1-22 and 33-47 under § 103(a) are not well founded. Appellants therefore respectfully request that the Board reverse the Examiner's objection and rejections.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1159.

Date: August 26, 2008

Respectfully submitted,



Scott Loras Murray  
Reg. No.: 53,360  
Attorney for Appellants  
Tel.: (949) 955-1920

## CLAIMS APPENDIX

1. A needle protector clip for protecting a tip of a needle, said needle protector clip comprising:

a proximal wall comprising an opening having a needle passing therethrough, the proximal wall defining a plane;

a first resilient arm extending distally to the plane of the proximal wall, the first resilient arm comprising a first arm section comprising a first dimension and a second arm section comprising a second dimension, wherein the first dimension is larger than the second dimension;

a second resilient arm extending distally to the plane of the proximal wall, the second resilient arm comprising a first arm section comprising a first dimension and a second arm section comprising a second dimension, wherein the first dimension is larger than the second dimension; and

wherein the first resilient arm intersects the second resilient arm at their respective second arm sections.

2. The needle protector clip of claim 1 made from a metal.

3. The needle protector clip of claim 2, wherein the metal is stainless steel.

4. The needle protector clip of claim 1, wherein the proximal wall has a width having a dimension greater than the second dimension of the second arm section of the first resilient arm.

5. The needle protector clip of claim 1, wherein the proximal wall has a width having a dimension greater than the second dimension of the second arm section of the second resilient arm.

6. The needle protector clip of claim 1, wherein the second dimension of the second arm section of the first resilient arm and the second dimension of the second arm section of the second resilient arm are substantially the same.

7. The needle protector clip of claim 1, wherein the first resilient arm further comprises a curved lip.

8. The needle protector clip of claim 7, wherein the second resilient arm further comprises a curved lip.

9. The needle protector clip of claim 8, wherein the first resilient arm and the second resilient arm each comprises a distal wall and wherein the curved lip extends from the distal wall.

10. The needle protector clip of claim 1, wherein the first resilient arm and the second resilient arm have arm portions that overlap.

11. The needle protector clip of claim 1 made from a unitary construction.

12. The needle protector clip of claim 9 made from a unitary construction.

13. The needle protector clip of claim 1, wherein the clip is positioned in an interior cavity of a catheter hub and wherein the needle is attached to a needle hub.

14. The needle protector clip of claim 13, wherein a portion of the needle protector clip contacts an interior surface of the interior cavity of the catheter hub.

15. The needle protector clip of claim 14, wherein the needle hub contacts the catheter hub.

16. The needle protector clip of claim 13, wherein the needle comprises a crimp or a bump.

17. The needle protector clip of claim 13, wherein the needle urges the first resilient arm and second resilient arm radially outwardly.

18. A needle protector clip for protecting a tip of a needle, said needle protector clip comprising:

a proximal wall comprising an opening having a needle passing therethrough, the proximal wall defining a plane;

a first resilient arm extending distally to the plane of the proximal wall, the first resilient arm comprising a first arm section comprising a first dimension and a second arm section comprising a second dimension, wherein the first dimension is larger than the second dimension;

a second resilient arm extending distally to the plane of the proximal wall, the second resilient arm comprising a first arm section comprising a first dimension and a second arm section comprising a second dimension, wherein the first dimension is larger than the second dimension; and

wherein the first resilient arm and the second resilient arm intersect one another and wherein a distal arm wall positioned distally of at least one of the first resilient arm and the second resilient arm.

19. A needle guard for shielding a needle tip comprising:

a proximal end wall having an opening for receiving a needle therethrough;

first and second arms each comprising a wide section, narrow section, and a distal wall at an end thereof, the first and second arms extending distally from the proximal end wall; and

wherein the first arm intersects the second arm and their respective distal walls overlap.

20. The needle guard of claim 19, wherein the distal walls of the first and second arms have portions that are generally parallel to the plane defined by the proximal end wall.

21. The needle guard of claim 19, wherein the needle guard is positioned in an interior cavity of a catheter hub and wherein a needle attached to a needle hub passes through the opening at the proximal end wall of the needle guard.

22. The needle guard of claim 21, wherein the catheter hub contacts the needle hub.

23.-32. (Canceled)

33. The needle guard of claim 19, further comprising two side flaps positioned proximate the distal wall of the first arm or the second arm.

34. The needle guard of claim 33, wherein the side flaps are located proximate the distal wall of the first arm.

35. The needle guard of claim 33, wherein the side flaps are located proximate the distal wall of the second arm.

36. The needle guard of claim 19, further comprising an arm extension member formed adjacent an edge of either the first arm or the second arm.

37. The needle guard of claim 33, further comprising an arm extension member formed adjacent an edge of either the first arm or the second arm.

38. The needle protector clip of claim 7, further comprising a finger extending from the curved lip of the first resilient arm.

39. The needle protector clip of claim 8, further comprising a finger extending from the curved lip of the second resilient arm.

40. The needle protector clip of claim 38, further comprising two side flaps located on the finger of the first resilient arm.

41. The needle protector clip of claim 39, further comprising two side flaps located on the finger of the second resilient arm.

5 42. The needle protector clip of claim 39, further comprising two side flaps located on the finger of the first arm and the finger of the second arm.

43. The needle protector clip of claim 39, further comprising an arm extension member formed on the first arm and the second arm.

10 44. The needle protector clip of claim 1, wherein the needle guard is positioned inside an interior cavity of a catheter hub and wherein a needle attached to a needle hub passes through the opening at the proximal end wall of the needle guard.

45. The needle protector clip of claim 41, wherein the needle guard is positioned inside an interior cavity of a catheter hub and wherein a needle attached to a needle hub passes through the opening at the proximal end wall of the needle guard.

15 46. The needle protector clip of claim 40, wherein the needle guard is positioned in an interior cavity of a catheter hub and wherein a needle attached to a needle hub passes through the opening at the proximal end wall of the needle guard.

47. The needle protector clip of claim 40, wherein the side flaps each comprises two side edges and a top edge.

### **EVIDENCE APPENDIX**

Appellants have not submitted any evidence pursuant to 37 C.F.R. §§ 1.130, 1.131 or 1.132. Appellants are unaware of any evidence entered by the Examiner.

**RELATED PROCEEDINGS APPENDIX**

Appellants are unaware of any related proceedings.